



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

November 5, 2004

**REGISTERED MAIL**

Don Whitehouse  
WSDOT South Central Region  
P.O. Box 12560  
Yakima, WA 98909-2560

RE: Water Quality Certification Order No. 1760, for Corps Public Notice 200400043. The project will include filling 9.65 acres of wetland to widen SR 240 between Interstate I-182 and the Richland "Y" Interchange to reduce existing traffic congestion and improve highway safety in Benton County, Washington.

Dear Mr. Whitehouse:

The public notice from the U.S. Army Corps of Engineers dated March 17, 2004 for proposed work in or near Yakima River, Benton County has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

This certification concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Kerry Carroll (360) 407-7503. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

Brenden McFarland, Supervisor  
Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program

BM:kc  
Enclosure

cc: WSDOT - Moe Davari  
Corps of Engineers - Anne Robinson  
Ecology, Central - Cathy Reed  
Ecology, Central - Ray Latham  
Ecology, Northwest - Kim Harper  
WSDFW - Ken Bevis  
Ecology, HQ - Penny Keys

**IN THE MATTER OF GRANTING  
A WATER QUALITY  
CERTIFICATION TO**  
Washington Department of Transportation  
in accordance with 33 U.S.C. 1341  
FWPCA § 401, RCW 90.48.260,  
RCW 90.48.120 and WAC 173-201A

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**ORDER # 1760**

(Corps No. 200400043)

SR-240 from I-182 to Columbia Center Blvd.,  
Benton County

TO: Don Whitehouse  
WSDOT South Central Region  
P.O. Box 12560  
Yakima, WA 98909-2560

On January 26, 2004 a request for water quality certification from the State of Washington was submitted for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The request for certification was made available for public review and comment through the Corps of Engineers' Public Notice No. 200400043.

The SR-240, I-182 to Columbia Center Boulevard project is located in Richland adjacent to the Yakima River in Sections 13, 14, 24, 25 and 30, Township 9 North, Range 28 and 29 East, Benton County. The project would expand the existing four-lane highway to six lanes plus an auxiliary lane in each direction between the I-182 Interchange and the Columbia Park Trail Interchange (Richland "Y"). A conveyance structure will be constructed in the SR 240 causeway to increase flood capacity and animal connectivity as well as two retaining walls along the westbound onramp of the Richland "Y". The total permanent wetland impacts will be 9.65 acres. The unavoidable impacts to wetlands will be mitigated per the SR 240/I-82 to Richland Y – Add Lanes SR 240/Richland Y to Columbia Center I/C final mitigation plan.

For purposes of Order No. 1760 (Order), the term "Applicant" shall mean the Washington State Department of Transportation (WSDOT) and its agents, assigns, and contractors.

**AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341, RCW 90.48.260 and RCW 90.48.120, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and,
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

**WATER QUALITY CERTIFICATION CONDITIONS:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, RCW 90.48.120 and Chapter 173-201A WAC, certification is granted to the Washington Department of Transportation (WSDOT) South Central Region subject to the following conditions:

**A. Water Quality Standard Conditions:**

1. This reach of the Yakima River is a Class "A" water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. This reach of the Yakima River has been identified on the current 303(d) list as exceeding state water quality standards for temperature. This proposed project shall not result in further exceedances of this standard. Temperature shall not exceed 21 degrees C due to human activities. When natural conditions exceed 21 degrees C no temperature increase will be allowed which will raise the receiving water temperature by greater than .3 degrees C: nor shall such temperature increases, at any time, exceed  $t=34/(T+9)$ .

**B. Timing:**

1. This Order shall be valid during construction and the long-term operation of the project.

The Applicant shall reapply with an updated application for certification if five years elapse between the date of the issuance of this Order and the beginning of construction and/or discharge for which the federal license or permit is being sought.

- a. The Applicant shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

**C. Notification Conditions:**

1. Notifications shall be made for the following activities.
  - at least 30 days prior to the pre-construction meeting,
  - at least 7 days prior to the onset of any work on site,
  - at least 7 days prior to construction of the on-site mitigation site,
  - within 7 days after the completion of the project.

**NOTE:** These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number and shall be sent to Ecology's Federal Permit Manager for this project, Kerry Carroll, unless otherwise notified, at 360/ 407-7503, Fax 360/ 407-6902, Email [kstr461@ecy.wa.gov](mailto:kstr461@ecy.wa.gov) or mail P.O. Box 47600, Olympia, WA 98504-7600.

2. The Applicant shall ensure that all appropriate Project Engineers and the Contractors at the project site and/or mitigation sites have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement from each Project Engineer and Contractor that they have read and understand the conditions of this Order and the referenced permits, plans, documents and approvals. These statements shall be provided to Ecology on the form provided (Attachment A) no less than 7 days before construction begins at the project or mitigation sites.

**D. Construction Stormwater Monitoring and Reporting Conditions:**

1. The applicant shall submit a Water Quality Monitoring plan and a Temporary Erosion and Sediment Control (TESC) Plan 30 days prior to beginning construction for Ecology's approval. These plans shall include, but are not limited to the following information:
  - a. Water Quality Monitoring Plan
    - Name and phone number of person responsible for monitoring;
    - map of sample locations, including background;
    - parameter(s) to be monitored, including turbidity, p.H., and temperature;
    - sample method;
    - and sample frequency.
  - b. TESC Plan
    - Name and phone number of person responsible for implementing plan;
    - best management practices (BMP's) anticipated to be implemented and their location;
    - frequency of BMP inspections;
    - and contingency plan in the event of adverse weather condition or other foreseeable undesirable conditions.
2. If the results of the monitoring show that the water quality standards or project performance standards are not being met, additional monitoring and mitigation may be required.

**E. Construction Activity Conditions:**

1. The work area associated with the construction of the conveyance structure shall be isolated with appropriate Best Management Practices (BMP's) to contain any water so that it is not discharged to surface waters or adjacent wetlands
2. During construction the Applicant shall comply with all stormwater requirements within the Stormwater General Permit for Construction Activity Permit No. SO3-005961, effective November 29, 2004, for this project.
3. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
4. Work in or near the waterbody shall be done so as to minimize turbidity, erosion, and other water quality impacts.
5. Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedence of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
6. All excess excavated material shall be disposed of above the 100-year floodplain and shall be stabilized or contained so as to prevent its re-entry into waters of the state.
7. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working conditions. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The applicant shall set up a designated area for washing down equipment.
9. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.
10. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly to waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet the water quality criteria at the point of discharge into surface waters and/or wetlands.

11. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetlands provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be dewatered and b) the water will meet all the water quality standards at the point of discharge.
12. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash out of concrete delivery trucks, pumping equipment, and tools.
13. Fresh, uncured concrete in direct contact with the water is toxic to aquatic life. All concrete shall be poured in the dry, or within the confined waters not being dewatered, and shall be completely cured prior to coming into contact with state waters.

**F. Wetland Mitigation and Monitoring Conditions:**

1. Mitigation for this project shall be constructed and maintained as described in the *Revised Draft Wetland Mitigation Plan, SR 240/I82 to Richland Y- Add Lanes SR 240/Richland Y to Columbia Center I/C* (Revised Draft) and approved by Kim Harper, wetland specialist for Department of Ecology, dated September 2004, except as modified by this Order. All modifications that follow shall be included in the final wetland mitigation plan for this project.
  - a. For the onsite mitigation, WSDOT shall receive the equivalent of 10.19 acres credit for creation of new wetland, 1.4 acres credit for enhancement of 5.62 acres of existing wetland, 0.2 acres credit for preservation of 0.7 acres of valuable cottonwood/rose habitat within the creation area, and 3 acres for the floodplain/wildlife connectivity culvert under SR 240.
  - b. For offsite mitigation, WSDOT shall receive the equivalent of 3.2 acres of credit for providing partial funding for the Amon Creek Fish Passage project that Washington Department of Fish and Wildlife will complete at the Meadow Springs Golf Course in Richland. For the Amon Creek project, WSDOT shall fund the replacement of a fish-blocking culvert with a stream simulation culvert and the restoration of fish passage through an irrigation reservoir. Description and plan sheets for this work shall be included in the final mitigation plan.
  - c. The grading plan for the onsite wetland creation area shall be revised to reflect the preservation of 0.7 acres of cottonwood and rose dominated upland areas.
  - d. The success standards for woody species percent cover in both the creation and enhancement areas in the onsite mitigation area shall be 50 percent cover of native species at 10 years.
  - e. Invertebrate monitoring shall continue through year 10 at the onsite mitigation area.

- f. A performance measure shall be added for hydrology for the onsite creation area that will demonstrate continuous inundation or saturation to within 12 inches of the soil surface for a minimum period of 12.5 percent of the growing season over a minimum of 10.19 acres. This performance measure shall apply for at least the first three growing seasons following construction and shall be measured by direct monitoring of water levels (both above and below ground) throughout the growing season.
    - g. Performance measures for years 1, 3, 5, and 7 and a success standard for year 10 shall be added that limit percent cover by noxious weeds and non-native invasive plant species to a maximum of 20 percent cover.
2. Mitigation elements are more fully described in the above referenced documents and as revised through the conditions of this Order. A final wetland mitigation plan report shall be approved by Ecology prior to commencing construction at the project site and shall reflect the modifications made to the Revised Draft of the mitigation plan by this Order. If conflicting language exists for a particular issue, conditions of the Order take precedence over all documents. If this Order does not address the issue, the most recent document prevails.
3. The final wetland mitigation plan shall be submitted to Ecology for approval. No construction related activities shall take place within the project site until the final wetland mitigation plan has been approved by Ecology.
4. Any changes to the mitigation plan after final approval must be approved in writing by Ecology prior to constructing the changes.
5. Compensatory mitigation construction and installation shall occur prior to, or concurrently with, project impacts to wetlands.
6. Upon completion of grading on the mitigation sites, and prior to planting, the applicant shall provide evidence (e.g., letter certifying that final elevations were confirmed by survey) to Ecology that finished grades are consistent with the final wetland mitigation plan or other subsequent Ecology-approved modifications to grading plans.
7. **"As-Built" Report:** an as-built report documenting the final design of the mitigation site shall be prepared when the mitigation site is completed. The report shall include the following:
  - final site topography;
  - photographs of the area taken from established permanent reference points;
  - a planting plan showing species, densities, sizes, numbers and approximate locations of plants, as well as plant sources and the time of planting;
  - habitat features (snags, large woody debris, etc) and their locations if any;
  - drawings in the report shall clearly identify the boundaries of new or enhanced wetlands;
  - locations of sampling and monitoring sites; and
  - any changes to the final approved mitigation plan that occurred during construction (see condition F.3 in reference to Ecology approval of changes to the final mitigation plan).

8. The "As Built" report shall be sent to Ecology's Federal Permit Manager for this project within sixty days of completing construction and planting of the wetland mitigation and in no case later than December 31 of the year in which the mitigation site is completed.
9. If a particular performance measure is not met during monitoring years 1 through 7, WSDOT shall present to Ecology the reasons for non-attainment. Ecology will determine whether remedial actions should be taken, additional wetland mitigation is needed, or the performance measure should be adjusted.
10. When needed to meet the performance measures stated in the Revised Draft Wetland Mitigation plan, dead or dying plants shall be replaced during the first available planting season with the same species or a native plant alternative, as approved by Ecology.
11. Appropriate and effective sediment control BMPs shall be installed adjacent to any surface water body on the mitigation site prior to commencing earthwork.
12. Removal or weeding of invasive species shall be done, at a minimum, directly around new plantings, and continued aggressive maintenance of the site shall be conducted to ensure the success of the plantings. If herbicides are used, all necessary permits and approvals must be obtained prior to use.
13. Monitoring of the wetland mitigation site will occur for a minimum of 10 years, with monitoring performed in years 1, 3, 5, 7 and 10. If, at monitoring year 10, all required performance standards have not been met, Ecology may require additional monitoring and/or additional wetland mitigation.
14. Monitoring of the wetland mitigation site shall be completed as described in the Revised Draft Wetland Mitigation plan prepared by Washington State Department of Transportation, with the following additions and clarifications:
15. Three copies of each annual monitoring report shall be submitted to Ecology's Federal Permit Manager for this project, P.O. Box 47600, Olympia, WA 98504-7600 no later than April 30<sup>th</sup> of the year following the formal monitoring periods of years 1, 3, 5, 7 and 10. A monitoring letter or report from Washington Department of Fish and Wildlife for the Amon Creek Fish Passage project shall also be provided to Ecology following this same schedule.
16. Invertebrate monitoring shall continue through year 10 at the onsite mitigation area.
17. Water levels, above or below ground as appropriate, shall be monitored at the onsite wetland creation area during the first three growing seasons following completion of the mitigation installation. The monitoring shall occur at a minimum of 10 monitoring points and at a minimum frequency of once monthly throughout each growing season, such growing season being defined by data from the nearest weather monitoring station noted in the Soil Survey for Benton County (average period of frost free days for 5 of 10 years).

18. Percent cover of noxious weeds and non-native invasive plant species shall be monitored for each of years 1, 3, 5, 7 and 10 following completion of installation of the onsite mitigation.

**G. Emergency/Contingency Measures:**

1. The applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the applicant shall immediately take the following actions:
  - a. Cease operations that are causing compliance problems.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area and, within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
  - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - e. Immediately notify Ecology's Central Regional Spill Response Office at (509) 575-2490 and Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems

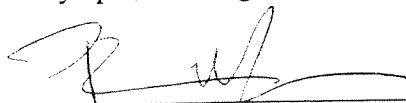
**H. General Conditions:**

1. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
2. This Order does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.

3. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
4. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
5. A WSDOT representative shall be on-site, or on-call and readily accessible to the site, at all times while construction activities are occurring that may affect the quality of ground and surface waters of the state, including all periods of construction activities.
6. The WSDOT representative shall have adequate authority to ensure proper implementation of the Erosion and Sediment Control Plan, as well as immediate corrective actions necessary because of changing field conditions. If the WSDOT representative issues a directive necessary to implement a portion of the Pollution Control Plan or to prevent pollution to the river, all personnel on site, including the construction contractor and the contractor's employees, shall immediately comply with this directive.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology or WDFW personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
8. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Applicant, and state agency personnel.
9. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

Any person aggrieved by Order No. 1760 may obtain review thereof by appeal. Pursuant to ch. 43.21B. RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated Nov 5, 2004 at Olympia, Washington



Brenden McFarland, Section Manager  
Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program

## Water Quality Certification 1760 Statement of Understanding

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for Washington State Department of Transportation in the expansion of the existing four-lane highway to six lanes plus an auxiliary lane in each direction between the I-182 Interchange and the Columbia Park Trail Interchange (Richland "Y"). A conveyance structure will be constructed in the SR 240 causeway to increase flood capacity and animal connectivity as well as two retaining walls along the westbound onramp of the Richland "Y". The project is located in Richland adjacent to the Yakima River in Sections 13, 14, 24, 25 and 30, Township 9 North, Range 28 and 29 East, Benton County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #1760 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, and Zip Code

